

STATE OF MICHIGAN
COURT OF APPEALS

ROSZETTA MARIE MCNEILL,

Plaintiff-Appellant,

v

COUNTY OF WAYNE,

Defendant-Appellee.

UNPUBLISHED

September 30, 2010

No. 292495

Wayne Circuit Court

LC No. 08-018649-CZ

Before: FITZGERALD, P.J., and MARKEY and BECKERING, JJ.

PER CURIAM.

Plaintiff, proceeding in propria persona, appeals by right the trial court's order granting defendant's motion for summary disposition and dismissing the case. We affirm.

Plaintiff has filed at least five lawsuits against Wayne County and various departments and divisions, as well as certain individuals. Each lawsuit was dismissed. When the court dismissed the fourth lawsuit, it also permanently enjoined plaintiff from filing any civil lawsuits against the county, its departments, divisions, elected officials, representatives, agents, employees, and others unless she posted a \$15,000 surety bond with the court clerk "to secure Plaintiff's liability for costs, sanctions, or attorney fees awarded against her in that action." The order further provided, "Plaintiff's failure to comply with the terms of the Court's injunction shall be grounds to dismiss any complaint filed in this court with prejudice and may subject Plaintiff to contempt proceedings."¹ Plaintiff thereafter filed this action, which defendant moved to dismiss on the ground that plaintiff had not filed the requisite bond as security for costs. The trial court granted the motion.

Plaintiff has not raised any identifiable issue relating to the dismissal of her complaint for failure to post bond. Most of plaintiff's claims on appeal relate to the merits of the trial court's rulings in the prior lawsuits. There is no dispute that the trial court had jurisdiction in those cases, each of which proceeded to a final judgment. Thus, the trial court's orders in the prior

¹ This Court denied plaintiff's delayed application for leave to appeal from that order "for lack of merit in the grounds presented." *McNeill v Wayne Co*, unpublished order of the Court of Appeals, entered November 26, 2008 (Docket No. 287111).

cases are not subject to collateral attack on appeal from the order entered in this case. *People v Howard*, 212 Mich App 366, 369; 538 NW2d 44 (1995); *SS Aircraft Co v Piper Aircraft Corp*, 159 Mich App 389, 393; 406 NW2d 304 (1987).

Plaintiff contends that she is entitled to sanctions against defendant pursuant to MCR 2.114(E) or (F), and its federal counterpart, FR Civ P 11(c). Apart from the fact that this issue has not been properly presented because it is not within the ambit of any of the questions presented, *People v Anderson*, 284 Mich App 11, 16; 772 NW2d 792 (2009), there is no record of plaintiff's having filed a motion for sanctions in this case. To the extent plaintiff filed such a motion in one of her prior cases and it was denied, that decision cannot be collaterally attacked here.

Plaintiff contends that any claims that might appear to be time-barred by the applicable limitations period are actually timely pursuant to the continuing violations doctrine. Apart from the fact that there is no indication that this case was dismissed on the ground that it was barred by a statute of limitations, the continuing violations doctrine was overruled by *Garg v Macomb Co Community Mental Health Servs*, 472 Mich 263, 266; 696 NW2d 646 (2005), amended 473 Mich 1205 (2005). Accordingly, we reject this claim of error.

Plaintiff also contends that she was deprived of her due process rights. There are two types of due process: procedural and substantive. *By Lo Oil Co v Dep't of Treasury*, 267 Mich App 19, 32-33; 703 NW2d 822 (2005). Here, plaintiff does not clearly explain how the dismissal of her complaint violated any procedural or substantive due process rights. Therefore, the issue is abandoned. *Berger v Berger*, 277 Mich App 700, 712; 747 NW2d 336 (2008).

Plaintiff lastly contends that she was denied her right to a trial by jury. A party who files a timely jury demand has an absolute right to a trial by jury regarding issues for which there exists such a right. MCR 2.508(A) and (B); *Anzaldua v Band*, 457 Mich 530, 538, n 6, 549-550, n 20; ; 578 NW2d 306 (1998). Moreover, the right to a trial by jury depends on there being a justiciable issue to be resolved by a trier of fact. "If the pleadings show that a party is entitled to judgment as a matter of law, or if the affidavits or other proofs show that there is no genuine issue of material fact, the court shall render judgment without delay." MCR 2.116(I)(1). Because plaintiff has not established that any claim was improperly dismissed, she cannot establish a violation of her right to trial by jury.

We affirm. As the prevailing party, defendant may tax costs pursuant to MCR 7.219.

/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey
/s/ Jane M. Beckering